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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/013,109	12/07/2001	Rene D. Martinez	411951-224	9523
23879	7590	12/15/2004		
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			EXAMINER TAYLOR, BARRY W	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/013,109

**Applicant(s)**

MARTINEZ, RENE D.

**Examiner**

Barry W Taylor

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/9/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-16 and 19 rejected under 35 U.S.C. 102(e) as being anticipated by Ovard et al (6,356,764 hereinafter Ovard).

Regarding claim 1. Ovard teaches an apparatus for interrogating (26 figures 1-2) an RFID tag (figure 3), comprising:

a radio adapted to communicate RF signals with the RFID tag (figures 5-6 and 8), the radio including a receiver portion (95 figure 6, 123 figure 8) and a transmission portion (90 figure 6, 121 figure 8);

a processor operatively coupled to the radio and providing control signals defining operational parameters of the radio (items 70 and 74 figure 5, item 97 figure 6, item 120 figure 8, col. 8 line 50 – col. 12 line 64); and

a memory accessible by the processor and containing at least one data value to set the operational parameters (col. 8 line 50 – col. 9 line 64).

Regarding claim 2. Ovard teaches the transmitter portion further comprises an amplifier subsystem adapted to be operated in a saturation condition (92 figure 6, 130 figure 8, col. 10 line 48 – col. 12 line 64).

Regarding claim 3. Ovard teaches potentiometer used (item 137 figure 8).

Regarding claim 4. Ovard teaches power amplifier (see item 130 figure 8 controlled via potentiometer 137).

Regarding claim 5. Ovard teaches I and Q (see items 82 and 84 figure 5, col. 9 lines 6-64).

Regarding claim 6. Ovard teaches using adjustment circuitry (96 figure 6, 123 figure 8) for filtering signals from RFID tag.

Regarding claim 7. Ovard teaches memory comprises non-volatile memory (col. 8 lines 59-61).

Regarding claim 8. Ovard teaches EPROM (col. 8 lines 59-61).

Regarding claim 9. Ovard teaches using memory having memory blocks (col. 9 lines 40-64).

Regarding claim 10. Ovard teaches memory containing identification data (col. 8 line 65 – col. 9 line 6, col. 9 lines 60-64).

Regarding claim 11. Ovard teaches memory used to store data value (col. 9 lines 6 – 67).

Independent claim 12 is rejected for the same reasons as claims 1, 3 and 4 since claim 12 is the combination of claims 1, 3 and 4.

Regarding claims 13-14. Ovard teaches using potentiometer (see 137 figure 8).

Regarding claim 15. Ovard teaches using memory having memory blocks (col. 9 lines 40-64).

Regarding claim 16. Ovard teaches memory containing identification data (col. 8 line 65 – col. 9 line 6, col. 9 lines 60-64).

Regarding claim 19. Ovard teaches power amplifier (see item 130 figure 8 controlled via potentiometer 137).

***Allowable Subject Matter***

2. Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (703) 305-4811, who is available Monday-Friday, 6:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (703) 305-4708. The facsimile phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Barry W. Taylor", with a long horizontal flourish extending to the right.

Barry W. Taylor  
Patent Examiner  
Technology Center 2600  
Art Unit 2643